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BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 380

EXONERATING MR. ANASTACIO G. AZCARRAGA, CLERK OF
COURT OF FIRST INSTANCE OF LEYTE AND EX OFFICIO
PROVINCIAL SHERIFF, SINCE RETIRED.

This refers to the administrative case against Mr. Anastacio G. Azcarraga, Clerk of Court of the Court of First Instance of Leyte and Ex Officio Provincial Sheriff, since retired, and Inocentes de la Peña, Deputy Provincial Sheriff, for gross ignorance of the law. The charge was formally investigated by District Judge Meneleo C. Melecór of the Court of First Instance of Leyte who found respondent Azcarraga not guilty thereof and recommended that he be exonerated, in which the Secretary of Justice concurs.

The charge arose in connection with the levy and sale at public auction of five parcels of land belonging to complainant Evangelista de Guia, judgment debtor in Civil Case No. 410 of the Court of First Instance of Leyte, Branch VI. On May 28, 1969, complainant filed a sworn complaint against respondents charging them with gross ignorance of the law under the following specifications: (1) that although the public auction sale of the five (5) parcels of land of complainant took place on November 6, 1967, to satisfy a judgment debt in Civil Case No. 410, entitled "Bonifacio Bustillo vs. Evangelista de Guia," as conducted by respondent Deputy Sheriff Inocentes de la Peña, both respondents "manipulated" the records to make it appear that the registration of the sheriff's sale was made on December 2, 1967, instead of January 9, 1968; (2) that due to such "manipulation" the respondents refused to take action on his protest and notice of redemption which he filed with them on December 13, 1968, thereby allowing the period of redemption to lapse; (3) that in the service of the corresponding writ of possession, De la Peña at first placed the successful bidder of one of the auctioned parcels in accordance with the agreement of complainant, but later and without court authority transferred said bidder to another lot; and (4) that De la Peña conducted the sale of the property in Barugo, Leyte, instead of the municipal treasurer's office in Carigara, same province, as advertised in the published and posted notices.

Respondent De la Peña not being a Presidential appointee, the discussion will be confined to respondent Azcarraga as regards specifications 1 and 2.

After hearing duly conducted, the District Judge-Investigator found respondent innocent of the charge and recommended his exoneration. Anent the first specification of "manipulation", the same was found to have been irresponsibly made, as there is absolutely no evidence that respondent had misrepresented that the registration of the certificate of sale was made on December 2, 1967. Nowhere in all the documents presented by both sides in the case does this particular date appear.

As to the second specification concerning respondent's alleged inaction on complainant's notice to redeem property sold on execution and letter of protest filed on December 13, 1968, he had no redemption money with him, although the documents he delivered to respondent stated that "the undersigned petitioner (complainant) asks that the redemption price of P8,300.16 be accepted by your office." In other words, at the same time that complainant asked that he be allowed to redeem, he did not have the necessary funds therefor. He was merely content to wait for respondent to answer his letter of protest on the supposition that "a letter must need an answer", without actively pursuing his right to redeem by producing the redemption money.

When the last day for him to redeem came on January 8, 1969, he was able to bring along P5,000 only, which was just enough to redeem one of the five parcels sold. In other words, complainant was aware, despite respondent's inaction on his protest, that he could exercise his right to redeem up to that day, as in fact he was allowed to exercise it when the amount he brought enabled him to redeem one parcel of land for P4,416 under a deed of redemption executed by buyer Clotilde Bustillo on January 14, 1969. If complainant could not therefore redeem the other four parcels it was not because he was deprived of the opportunity to do so but because of his failure to take advantage thereof for lack of funds.

Wherefore, and as recommended by the District Judge-Investigator and the Secretary of Justice, Mr. Anastacio G. Azcarraga, former Clerk of Court of the Court of First Instance of Leyte and Ex Officio Provincial Sheriff, is hereby exonerated from the charge.

Done in the City of Manila, this 21st day of January, in the year of Our Lord, nineteen hundred and seventy-six.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(SGD.) J. C. TUVERA
Presidential Assistant